

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

NEXMED HOLDINGS, INC., a Delaware corporation,

Plaintiff,

vs.

BLOCK INVESTMENT INC., a Bahama corporation, CLEALON B. MANN, an individual, and THE SOMERSET GROUP, INC., a Nevada corporation,

Defendants.

MEMORANDUM DECISION AND ORDER GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST DEFENDANT, THE SOMERSET GROUP, INC.

Case No. 2:04-CV-288 TS

On June 29, 2004, Plaintiff served Somerset's counsel with an Amended Complaint. Fed.R.Civ.P. 12(a) requires that an Answer be filed within 20 days of service. Defendant Somerset waited until January 10, 2006, to file its Answer. The Court struck the Answer as untimely. As a result, Defendant Somerset has failed to file an Answer.

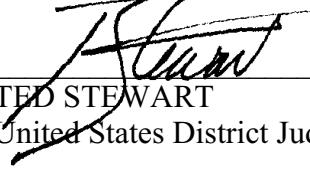
Plaintiff filed the instant Motion on January 31, 2006, seeking an order of the Court declaring Defendant Somerset in default. Defendant Somerset has failed to respond. DUCivR 7-1(b)(3) requires that a memorandum opposing a motion be filed within 15 days. DUCivR 7-1(d)

states that “[f]ailure to respond timely to a motion may result in the court’s granting the motion without further notice.” Since Defendant Somerset has failed to respond to this Motion and has failed to file an Answer, the Court will grant the Motion and will declare Somerset in default.

It is hereby ORDERED that Plaintiff’s Motion for Default Judgment Against Defendant, the Somerset Group, Inc. (Docket No. 169) is GRANTED.

DATED February 22, 2006.

BY THE COURT:



TED STEWART
United States District Judge